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Summary

In Argentina there are 24 indigenous peoples whose history pre-dates the establishment of the national State. Argentina has a legal framework that recognizes the rights of indigenous peoples, but these rights have been subordinated to the neoliberal policies being implemented by the State. The situation of our lands, territories and natural resources is serious because the conditions for the effective exercise of our right to self-determination are not being established and there are continual cases of eviction and seizure of our lands and resources. Since late 2006, a change in the situation of our lands has been made possible by the adoption of a law that declares an emergency in indigenous community property rights. Depending on how it is implemented, this law will either legalize dispossession or will represent the starting point for finding a way to acknowledge our entitlement to territory and autonomy.

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I. Indigenous peoples in Argentina

1. In Argentina there are 24 indigenous peoples organized in more than 900 rural communities. We speak 14 languages and make up 10 per cent of the population (4 million inhabitants). We are the Kolla, Mapuche, Toba-Q'om, Pilagá, Mocoví, Tehuelche, Ona-Selk'nam, Mbyá Guaraní, Wichí, Diaguita, Calchaquí, Huarpe, Tonocote, Rankulche, Chulupí, Chorote, Ava Guaraní, Tupí Guaraní, Chané, Tapiete, Charrúa and Comechingón peoples. Third parties profit from the biodiversity and the economic and geopolitical advantages of our lands and territories. Meanwhile, indigenous peoples are at great risk: basic needs are not met in 23 per cent of indigenous households and this exceeds the national average by almost 10 per cent. To ensure our physical, cultural and ideological survival, indigenous peoples require the territorial space that we have traditionally inhabited and our functional and territorial autonomy in the framework of the State.

II. The main problems

2. Our proposal for self-determination is based on the constitutional recognition of our ethnic and cultural pre-existence. Argentina's Constitution provides that when it incorporates human rights treaties and treaties on the rights of indigenous peoples, those provisions acquire constitutional status (article 75, paras. 17 and 22). Nevertheless, the State does not recognize our political identity, and our lands, territories and natural resources are subordinated to the neoliberal policies that dominate the country's economic life.

A. Our political identity as peoples

3. The main consequences of the denial of our identity as peoples are the lack of control over the use of our lands and resources, the imposition of a development model that is alien to our world view, the manipulation and subversion of our traditional institutions, the imposition of State authority over community authorities and the lack of real participation in issues that affect the life of our peoples.

4. The indigenous representative bodies established by Governments are fragmented and uncoordinated and thus lack the attributes of our identity as a people. An example of this is the establishment of indigenous institutes by provincial governments.

5. In 2006, the Council on Indigenous Participation was established to enhance cooperation between the indigenous peoples and the State. The Council will serve as a political actor for indigenous peoples if it can create real opportunities for political organization that allow for the implementation of a federal pact that reflects the political will to establish a multinational State.

B. The situation of our lands and natural resources

6. The recent adoption of Law No. 26,610 on the emergency in indigenous community property rights, which was the result of the struggle of indigenous peoples and the reporting of violent evictions, has raised great expectations and

allowed for the possibility of change. Depending on how it is implemented, this law will either legalize dispossession or will represent the starting point for finding a way to acknowledge our entitlement to territory and autonomy. Until this is established, the situation is characterized by the problems described below.

7. Although the Constitution recognizes our community ownership of lands, in the last few years there has been an increase in eviction and seizure using violence and threats. For example, the Guaraní community of El Tabacal, Salta, was evicted by the multinational Seaboard Corporation with the complicity of the provincial government, and the Mapuche communities of Aluminé, Neuquén, were evicted and the Curiñanco-Nahuelquir family was dispossessed by Benetton in Chubut.

8. The Toba, Wichí and Mocoví peoples denounce the sale of lands by the government of the Province of El Chaco: 1,890,000 hectares have been sold and it is calculated that between 1.2 and 1.5 million hectares have been expropriated using absolutely illegal means. Plots of 2,500 hectares have been sold at 1.14 Argentine pesos per hectare.

9. In fulfilment of its constitutional responsibility, since 1996 the State has signed agreements with some provinces through the National Institute of Indigenous Affairs (INAI), including, inter alia, agreements concerning 245,000 hectares belonging to the Mapuche and Tehuelche communities in Chubut, 334,000 hectares in Río Negro and 1,293,000 hectares in Jujuy in which over 150 communities of the Kolla and Guaraní peoples live. In all cases, compliance is less than 10 per cent. In the Province of Jujuy, the courts penalized the provincial government for the delay and have ordered it to carry out the transfer within 15 months.

10. In the Province of Formosa, there are lands to which indigenous peoples hold title but which, because of the lack of land-use regulations and community oversight mechanisms, are subject to intrusions by settlers whose farming methods (cattle-grazing) are detrimental to the use of our resources.

11. Multinational companies are entering community territories with the consent of the State for oil exploration and exploitation. Repsol is invading and contaminating the ancestral territories of the Mapuche people in the Province of Neuquén. In Loma de la Lata, members of the Kaxipayiñ and Paynemil communities show alarming levels of poisoning as a result of the bioaccumulation of more than 17 heavy metals. This situation is being studied by the Inter-American Commission on Human Rights. Oil exploitation by other companies, including Pioneer, Apache and Pluspetrol, affects dozens of Mapuche territories, Wichí territories in the Department of Ramón Lista, Province of Formosa, and Guaraní territories in El Ramal, Jujuy.

12. Argentina has already lost 75 per cent of its native forests. It is calculated that some 250,000 hectares are lost each year, mainly in the region of El Chaco as a result of increased soy cultivation.[1] For those of us who live in the forests and whose livelihoods depend on the forests, this is a case of slow genocide. The increase in single-crop farming is as alarming as it is illegal and violates our right to food sovereignty. The Hoktek T'oi-Wichí community lodged an appeal for the invalidation of two administrative acts promulgated by the competent provincial authority which authorized the indiscriminate deforestation of community territory.

[1] Greenpeace Argentina, "Información sobre deforestación", 2006.

The highest Argentine court granted the appeal. However, the area most under threat from deforestation and increased single-crop soy farming comprises the territories of the Wichí communities in the basin of the Itiyuro River in the Province of Salta.

13. Mining is part of the private sector's ambitious plans to cover the entire Andean area. In November 2006, an important meeting of the indigenous communities of the Andean highlands was held in Abra Pampa, Jujuy. Open-pit mining was strongly rejected and we made a commitment to defend our territories and the right to promote development in accordance with our principles and world view.

III. Recommendations[2]

14. **The following actions are recommended:**

(a) **Establishment of a register of indigenous peoples and territories with self-identified territorial boundaries, jurisdiction, competence and budget;**

(b) **Establishment of federal jurisdiction with respect to our rights;**

(c) **Implementation of an effective delimitation, demarcation and land titling procedure pursuant to the law on the emergency in indigenous community property rights;**

(d) **Implementation of constitutional guarantees on the management of our natural resources in all projects affecting them, with the requirement of free, prior informed consent;**

(e) **Implementation of a safeguard mechanism to ensure respect for and implementation of article 8 (j) of the Convention on Biological Diversity;**

(f) **Establishment of biosphere reserves and World Heritage sites or other sites with our consent, and control of existing sites by indigenous peoples;**

(g) **Declaration of an emergency with respect to the indiscriminate cutting of trees and the killing of animals in danger of extinction.**

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[2] Document issued by the National Forum: "Derecho de los pueblos indígenas en la política pública", 2005.